

# **Draft Green Building Ordinance**

## Implementing San Jose's Green Vision & the Green Building Policy

### Green Vision Goal #4:

*"Build or retrofit 50 million  
square feet of green buildings."*



# Green Building Ordinance

## Staff Recommendation:

- Accept the staff report and refer to the full City Council on June 23, 2009 the adoption of the Green Building Ordinance for New Private Sector Construction in accordance with the adopted Green Building Policy for New Private Sector Construction (Council Policy 6-32).



# Green Building Policy Standards

Project Type	GB Performance Requirements
<b>Tier 1 Commercial / Industrial</b> ( <b>&lt;25,000 square feet</b> )	<b>Submit a completed LEED Checklist</b>
<b>Tier 2 Commercial / Industrial</b> ( <b>&gt; 25,000 square feet</b> )	<b>Certify at the LEED Silver Level or higher</b>
<b>Tier 1 Residential</b> ( <b>&lt;10 units</b> )	<b>Submit a completed GreenPoint Rated Checklist or LEED Checklist</b>
<b>Tier 2 Residential</b> ( <b>&gt; 10 units</b> )	<b>Certify as GreenPoint Rated (50 pts) or LEED Certified or higher</b>
<b>High Rise Residential</b> <b>75' or higher</b>	<b>Certified at the LEED Certified level or higher</b>





# Green Building Policy

- Adopted by City Council October 7, 2008
- Green Building standards are 3<sup>rd</sup> party certification standards (LEED or Build it Green)
  - Regionally consistent standards
  - Recognized by HBA, ABAG, Cities Association
- Green Building requirements determined at planning development permit stage
- Performance Green Building Refundable Deposit to compliance



# Green Building Ordinance

## Codify the Provisions of Green Building Policy:

- Establishment of the USGBC (LEED) and Build it Green's Green Point Rated rating systems as the mandatory green building standards for the City of San Jose.
- Exemption and Appeal Process from the established Green Building Requirements
- Establish the GB Refundable Deposit (\$0.30/ sq. ft.)
- Implementation guidelines
- Pipeline Provisions
- Analysis of the cost implications in accordance with California Energy Commission requirements.



# Outreach Results

Comment	Addressed by Ordinance	Not Included
Alternate Means of Compliance to 3 <sup>rd</sup> Party Certification Desired		X
Concern that Some Projects Can't Achieve 3 <sup>rd</sup> Party Certification	X	
Checklist Submitted at Building	X	





# Outreach Results (cont)

Comment	Addressed by Ordinance	Conflicts w/ Policy
All Certification Standards should be equal regardless of type of project		x
Concerns about Procedures for Projects with Multiple Phases/Buildings	x	
Appeal Process for Determinations by Director & Process for Extensions on Granting Refunds	x	



# Outreach Results (cont)

Comment	Comment has Drawbacks	Factors to Consider
Concerns that Deposit Too Low to act as Deterrent for Non-Compliance		X
Collect Deposit Later- Certificate of Occupancy	X	
Cost of Certification is Substantial		X





# Ordinance Alternative-Alternate Compliance in addition to 3<sup>rd</sup> party Verification

Pros	Cons
No interaction with any verification body other than the City	Does not allow for regionally consistent & recognized standards.
Projects would not incur costs of LEED or BIG.	Cost to applicants higher than USGBC or BIG for peer review & City review of reports.
LEED requires a different energy calculation standard than required in California	More time-consuming process to familiarize with unique standards.



# Ordinance Alternative- Delay GB Deposit Payment

Pros	Cons
Saves several months a project will need to forgo the costs related to carrying the cost of the deposit	Other city fees are received at the issuance of the building permit. Greater coordination necessary for payment at site vs. at City Hall.
	May result in delays of the issuance of certificates of occupancy.



# Next Steps

- **City Council Consideration**  
June 23, 2009
- **Green Building Policy for Renovations and Retrofits**  
Begin Outreach in Late Summer 2009
- **Revisit adopted Policy/Ordinance**  
Mid 2011





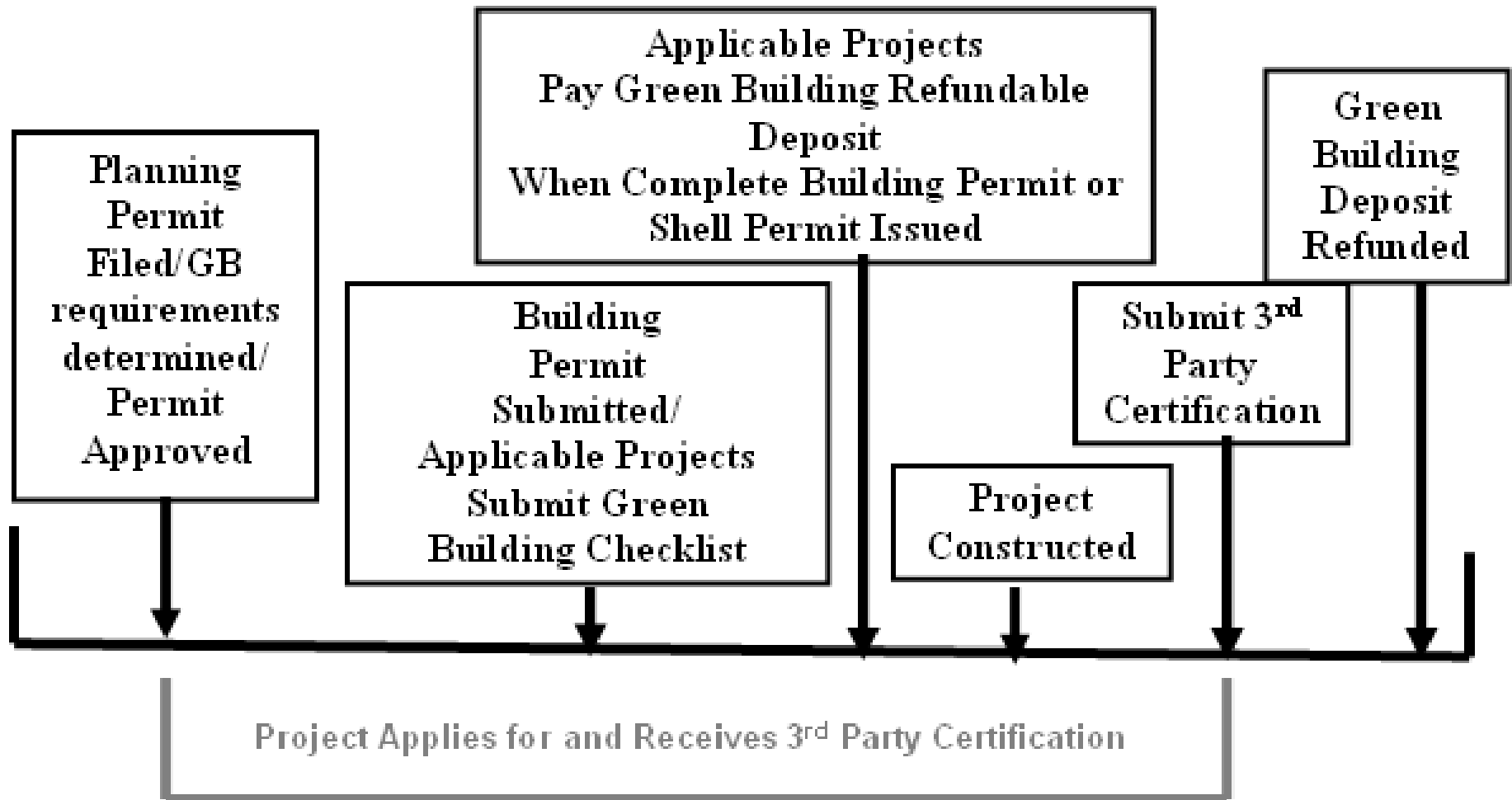


# San Jose's Green Vision

1. Create 25,000 Clean Tech jobs as the World Center of Clean Tech
2. Reduce per capita energy use by 50 percent
3. Receive 100 percent of our electrical power from clean renewable sources
- 4. Build or retrofit 50 million square feet of green buildings**
5. Divert 100 percent of the waste from our landfill and convert waste to energy
6. Recycle or beneficially reuse 100 percent of our wastewater (100 million gallons per day)
7. Adopt a General Plan with measurable standards for sustainable development
8. Ensure that 100 percent of public fleet vehicles run on alternative fuels
9. Plant 100,000 new trees and replace 100 percent of our streetlights with smart, zero emission lighting
10. Create 100 miles of interconnected trails.



# Green Building in Dev. Process





# Green Building Refundable Deposit

## Amount

- Flat Rate of \$0.30/ gross sq ft
- \$30,000 maximum deposit cap per building permit issued  
(Examples: 2,000 sq ft residential unit=\$600 deposit  
25,000 sq foot commercial building= \$7500 deposit)

## Timing

- Payable at Building Permit issuance
- Refund issued upon 3<sup>rd</sup> party certification



# Exemptions to GB Requirements

- Criteria for Granting Exemptions

LEED prerequisite credits or minimum GreenPoint Rated points cannot be achieved due to unique project type or existing physical site constraints.

- Timing of Exemption Request

Available during development permit processing & After development permit approved





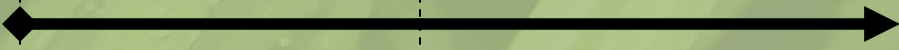
# 3<sup>rd</sup> party certification

- Adopted Policy created 3<sup>rd</sup> party standards.
- 3<sup>rd</sup> party standards are regionally and nationally recognized.
- 3<sup>rd</sup> party certification provides peer review.
- Deposit system allows for no additional barriers during development review process





# Pipeline

Development Permit	January, 2009	July, 2009
On File/In Process	 	
New		

◆.....▶ Not subject to green building provisions

◆————▶ Subject to provisions



# GB Refundable Deposit (cont)

- Refund Requirements
  - Single Building Projects
    - 3<sup>rd</sup> party certification to be received within 1 year after building permit finalized or becomes inactive.
  - Multiple Buildings Projects
    - 3<sup>rd</sup> party certification to be received within 5 years after building permit finalized or becomes inactive.
  - Refund Extension
    - Extension request must be made prior to the refund expiration deadline.
    - Accompanied by evidence that delay in certification is exclusively due to 3<sup>rd</sup> party certifier delays



# Exemptions to GB Requirements

- Criteria for Granting Exemptions

LEED prerequisite credits or minimum GreenPoint Rated points cannot be achieved due to unique project type or existing physical site constraints.

- Timing of Exemption Request

During processing of the development permit

- Surcharge to cover staff time
- Decision granted through conditions of approval

After development permit approved

- Development Permit Amendment submitted to remove green building requirement condition of approval





# Exemptions to GB Requirements (cont.)

- Appeal Provisions
  - The appeal of a green building requirement condition of approval of the development permit.
  - The same appeal process for all development permits or development permit amendments.
  - Appeal heard by the Planning Commission.





# Implementation Procedures

- Multi-Building Project Provisions
  - Commercial/Industrial Development-
    - GB reqs based on building's size, regardless of size of total project.
      - Ex. The Plant
        - 32 buildings totaling 640,000 sq ft.
        - only 6 buildings >25,000 square feet
        - 6 buildings required to achieve LEED Silver, remaining buildings required to submit checklist

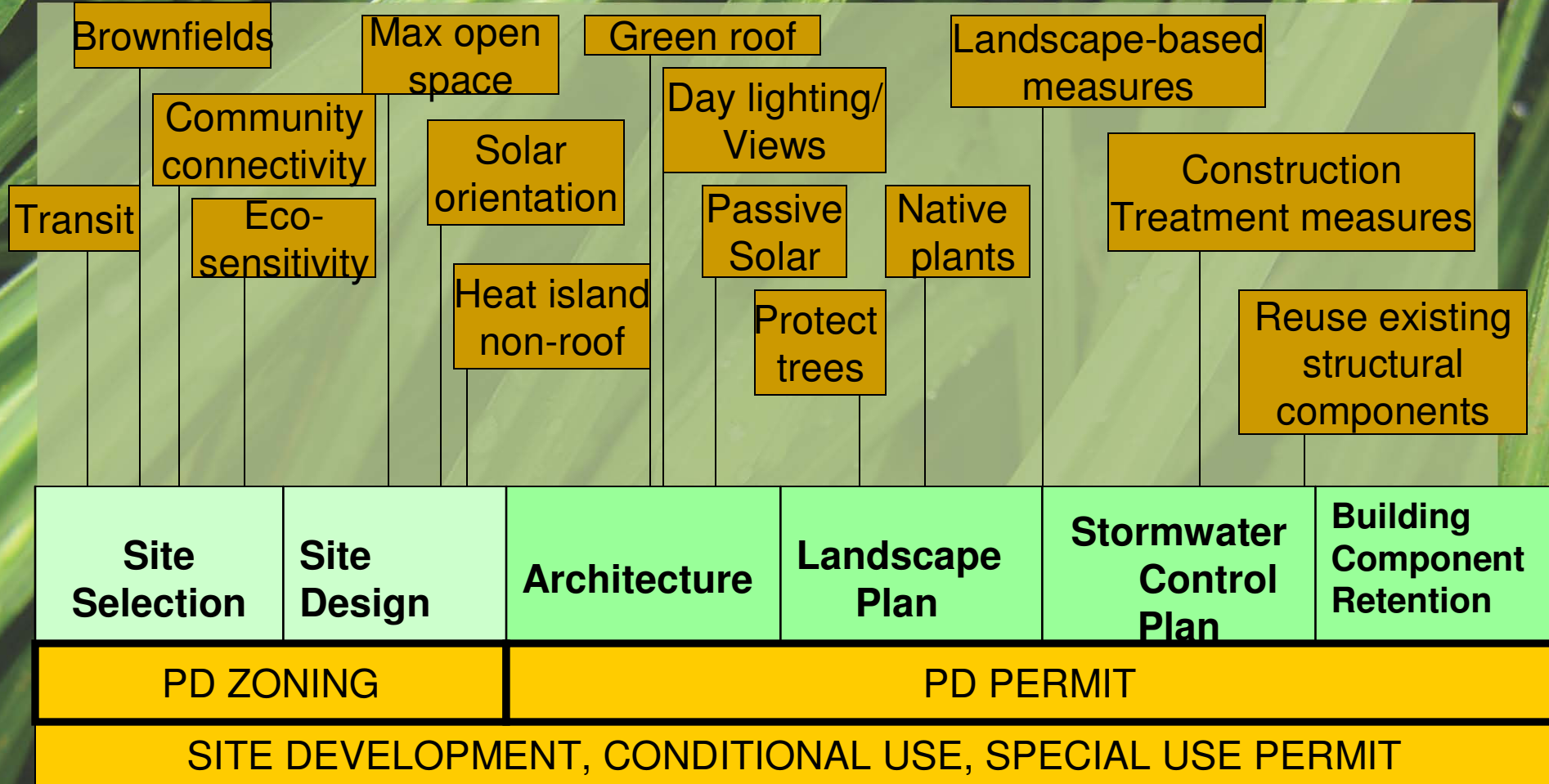


# Implementation Procedures (cont)

- Multi-Building Project Provisions
  - Residential Development-
    - Large Tract vs. Large Custom Development
    - GB reqs determined by total number units with duplicate unit types



# GB Features During Planning





# 3<sup>rd</sup> Party Certification-LEED fees

## Fees for Members of USGBC

LEED for: New Construction, Commercial Interiors, Core and Shell, and Schools	Less than 50,000 Square Feet	50,000- 200,000 Square Feet	200,001- 500,000 Square Feet	More than 500,000 Square Feet
Registration Fee	\$450			
Certification Fees				
Design Review (~\$0.025/SF)	\$1,250	\$1,250- \$5,000	\$5,000- \$12,500	\$12,500
Construction Review (~\$0.01/SF)	\$500	\$500- \$2,000	\$2,000-\$5,000	\$5,000
<b>Total</b>	<b>\$2,200</b>	<b>\$2,200- \$7,450</b>	<b>\$7,450- \$17,950</b>	<b>\$17,950</b>



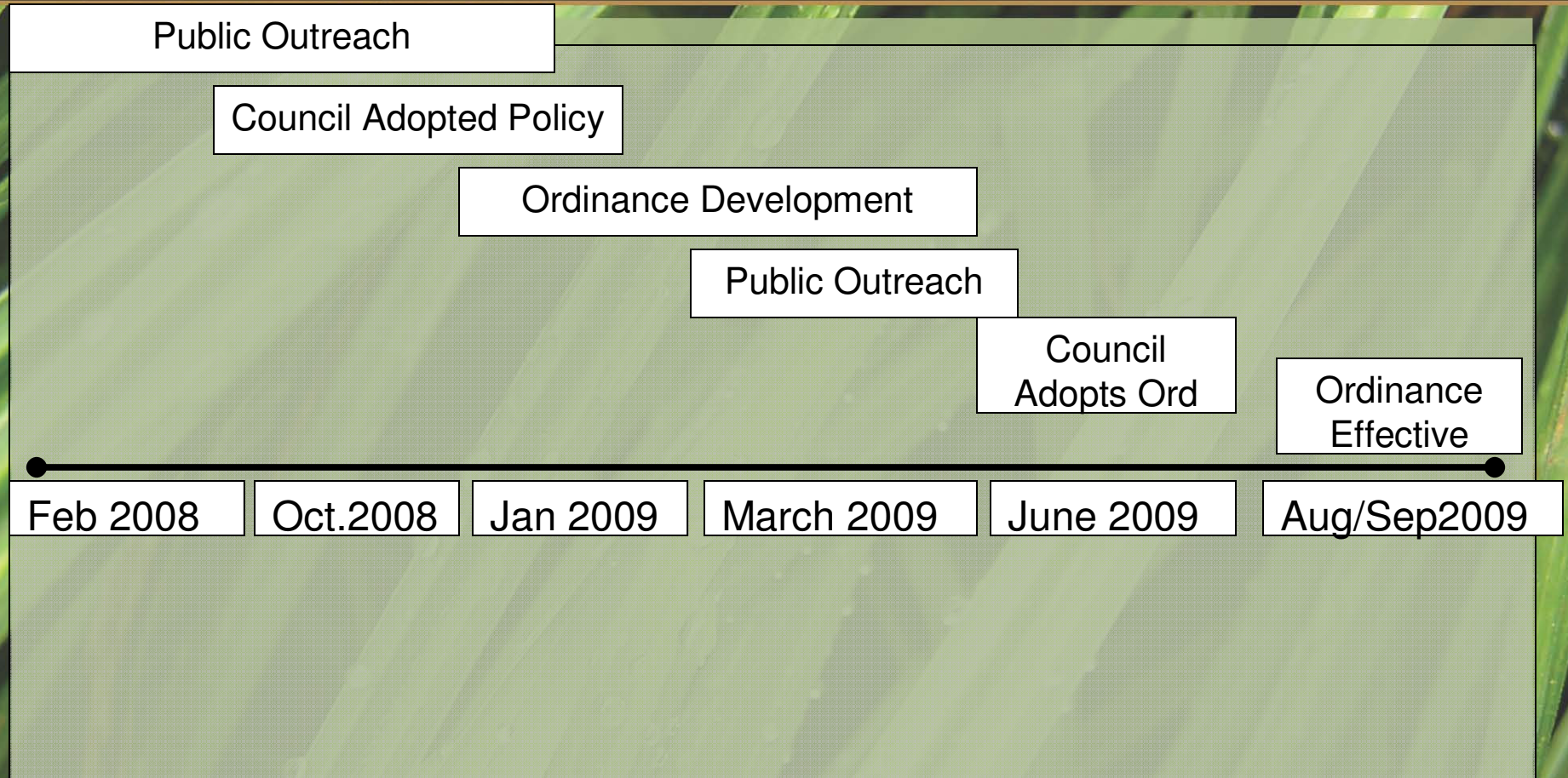
# 3<sup>rd</sup> Party Certification-Build it Green

## Build It Green Fees

Item	Single Family (per home/unit, waived for single custom home)	Multifamily (multifamily master certificate/rental complex)
Project Application Fee	\$400 per project, due with application	\$400 per project, due with application
Processing and Certificate	\$50 per home, invoiced to rater at time of application	\$100 per project, invoiced to rater at time of application
Project Pre-Construction Review for GreenPoint Rated Logo Use	\$350 per project, invoiced to builder due upon application	\$350 per project, invoiced to builder due upon application
Subtotal: (Amount owed to BIG)	\$800	\$850
Average GreenPoint Rater Fees	\$700-\$1500	\$3750-\$6000
<b>Total</b>	<b>\$1500-\$2300</b>	<b>\$4600-\$6850</b>



# Timeline for Green Building





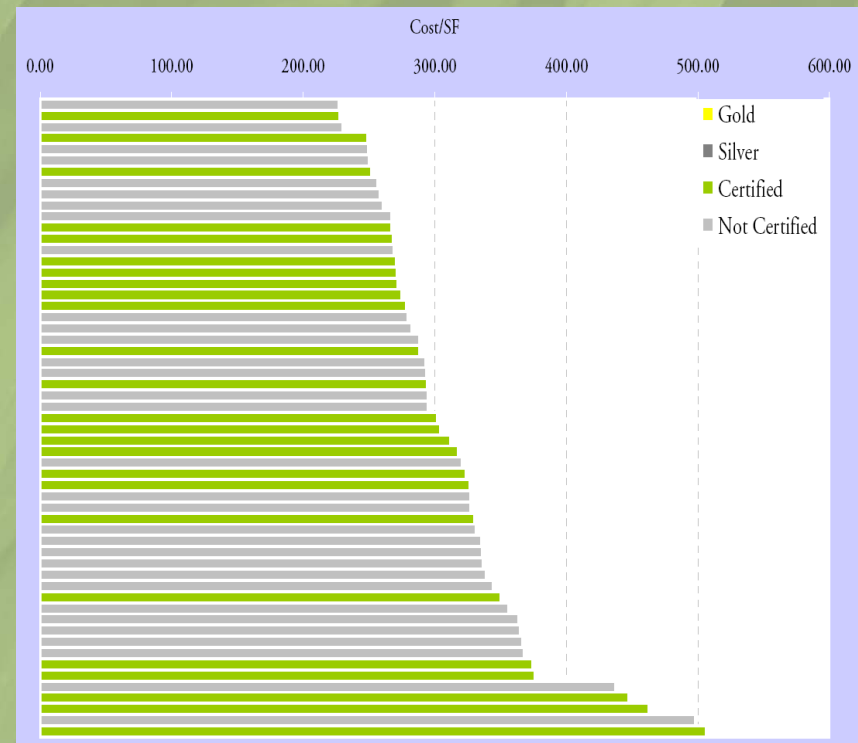
# Benefits and Costs

## Representative benefits:

- 8-9% decrease in operating costs
- 7.5% increase in building values
- 3.5% increase in occupancy
- 3.0% increase in rental income
- 6.6% improvement in ROI

Source: USGBC, from various primary sources.

## Cost Trend:



Green building does not determine \$/sf

Davis Langdon 2007 Cost Data for 83 LEED, 138 Non-LEED Buildings

